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SUSAN Y. SOONG COURT  
CLERK, U.S. DISTRICT COURT  
NORTH DISTRICT OF CALIFORNIA  
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6 UNITED STATES DISTRICT COURT  
7  
8 NORTHERN DISTRICT OF CALIFORNIA

9 Shikeb Saddozai,  
10  
11 Petitioner/Appellant,

12 v.

13 Ron Davis, et al.,  
14  
15 Respondent/Appellees.

Case No.: 18-05558 BLF (PR)  
D.C.No.:

MEMORANDUM OF LAW IN SUPPORT  
OF PETITIONERS' MOTION FOR  
APPOINTMENT OF COUNSEL

16  
17 Statement of the Case

18  
19 Petitioner/Appellant, a California state prisoner, filed  
20 a instant pro se Civil Rights action pursuant to 42 U.S.C. §  
21 1983, asserting claims for constitutional violations and seek-  
22 ing damages as to all claims. The District Court has granted  
23 petitioner's in forma pauperis. Petitioner has filed a declara-  
24 tion in support of Motion for Appointment of Counsel.  
25  
26  
27  
28

## ARGUMENT

## THE COURT SHOULD APPOINT COUNSEL FOR THE PETITIONER

In deciding whether to appoint counsel for an indigent litigant, the court should consider "the factual complexity of the case, the ability of the indigent to investigate the facts, the ability of the indigent to present his claim, and the complexity of the legal issues." *Abdullah v. Gunter*, 949 F.2d 1052, 1035 (8th Cir. 1991) (citation omitted). In addition, courts have suggested that the most important factor is whether the case has merit. *Carmona v. U.S. Bureau of Prisons*, 243 F.3d 629 632 (2d Cir. 2001). Each of these factors weighs in favor of appointment of counsel in this case.

1. **Factual Complexity.** The Petitioner alleges several claims with each claim involving a different set of arguments that arise out of the conduct, transaction or occurrence set out-or attempted to be set out-in the original pleading. The sheer number of claims and arguments make this a factually complex case that supports the appointment of counsel. *Montgomery v. Pinchak*, 294 F.3d 492, 503-04 (2d Cir. 2002); *Moore v. Mabus*, 976 F.2d 258, 272 (5th Cir. 1992); *Jackson v. County of McLean*, 953 F.2d 1070, 1073 (7th Cir. 1992).
2. **The Petitioner's Ability to Investigate.** The Petitioner is locked up and has no ability to investigate the facts. For example is unable to obtain the court minutes and transcripts of pleadings with regard to developing the facts as an inmate who is restricted by and in the conditions of his confinement, a factor the several courts have cited in appointing counsel. *Tucker v. Randall* 948 F.2d 258, 391-92 (7th Cir. 1991); *Gatson v. Courzalin*, 579 F.Supp. 270, 273 (W.D.N.Y. 1988).

In addition this case will require discovery to identify potential issues as to the effectiveness of representation. Petitioner received in entering his plea. See *Parnam v. Johnson*, 126 F.3d 454, 459 (3d Cir. 1997) (holding counsel should have been appointed because "prisoners lack of legal experience an the complex discovery rules clearly put Petitioner at disadvantage in countering the respondents discovery tactics... these [discovery] rules prevented the petitioner] from presenting an effective case."

1 3. The Ability of the Indigent to Present his Claim. The  
2 Petitioner is indigent prisoner with no legal training,  
3 a factor that supports the appointment of counsel.  
4 Forbes v. Edgar 112 F3d 262 264 (7th Cir 1997).

5 In addition Petitioner is confined and has no access to  
6 receive legal materials and or has been obstructed by  
7 prison officials from access to legal materials.  
8 Rayes v. Johnson, 969 F2d 700 703-04. (8th Cir 1992)  
9 (citing lack for ready access to a law library as a factor  
10 supporting appointment of counsel.)

11 4. Legal Complexity. The large number of complex legal issues  
12 presented involve the constitutionality of a federal  
13 statute, questions of the extent of prisoners rights under  
14 the federal disability statutes, and determining whether a  
15 prison regulation violates a Petitioner's rights of due  
16 process. Hendricks v. Coughlin 114 F3d 390,394 (2d Cir 1997)  
17 (holding complexity of legal issues supported appointment  
18 of counsel).

19 In addition Petitioner has requested an evidentiary hearing  
20 which requires much greater legal skills than the Petitioner  
21 has or can develop. Solis v. County of Los Angeles, 514 F3d  
22 946 953 (9th Cir 2003) (prisoner with an eighth grade  
23 education and no legal training is "ill-suited" to conduct  
24 a jury trial).

25 5. Merit of the Case. The court has issued an order to  
26 "Respondent" to show cause, as the Petitioner's case has  
27 merit. The aforementioned factors have been met. On its  
28 face then, this is a meritorious case.

29 In addition upon Petitioner filing petition on his own,  
30 when the judge issues an "order to show cause", then the  
31 judge must also appoint counsel to represent Petitioner  
32 at states expense. Rule 4.551(c)(2).

CONCLUSION

For the foregoing reasons, the court should grant the  
Petitioner's motion and appoint counsel in this case.

Date: September 8, 2020

Agent - Anduzen: Shikeb Saddozai - UCC-1-308

Shikeb Saddozai<sup>(s)</sup> Petitioner In Pro per